

Message Text

UNCLASSIFIED

PAGE 01 STATE 283493

63

ORIGIN L-02

INFO OCT-01 EA-10 ISO-00 SNM-02 JUSE-00 SCA-01 SY-04 PRS-01

DEAE-00 SCSE-00 SS-15 NSC-05 NSCE-00 SP-02 SSO-00

RSC-01 /044 R

DRAFTED BY L/M:CLBLAKESLEY:AD

APPROVED BY L/M:KEMALMBORG

L/C - R. HENDERSON (SUBS)

EA/J - C. DUNKERLEY (PHONE)

S/NM - M. LAWRENCE (PHONE)

JUSTICE - J. MCLAUGHLIN (PHONE)

----- 020378

O 302255Z DEC 74

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO IMMEDIATE

UNCLAS STATE 283493

E.O. 11652: N/A

TAGS: CPRS, PFOR, SNAR, CGEN, JA

SUBJECT: JUDICIAL ASSISTANCE -- JUSTICE DEPARTMENT'S REQUEST
FOR DEPOSITION

REF: TOKYO 16863

1. WITH REGARD TO PARA 4 REFTTEL, COMPENSATION BY FEDERAL GOVERNMENT IS BASED UPON FEDERAL TORT CLAIMS ACT. THE EXCEPTIONS SECTION OF THIS ACT (28USC 2680) STATES THAT THIS ACT SHALL NOT APPLY TO ANY CLAIM ARISING IN A FOREIGN COUNTRY. THIS IS DISPOSITIVE IN THE PRESENT CIRCUMSTANCES. FYI - IF GOJ BELIEVED IT HAD A CLAIM FOR DAMAGES ARISING OUT OF SOME NEGLIGENT OR WRONGFUL ACT OR OMISSION OF AN EMPLOYEE OF THE DEPARTMENT OF STATE DONE WHILE ACTING WITHIN THE SCOPE OF THEIR AUTHORITY, THE GOJ (NOT ANY INDIVIDUAL) COULDBRING A CLAIM IN ACCORDANCE WITH INTERNATIONAL LAW.

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 283493

PROCEDURE FOR SUCH A CLAIM IS IN 2 FAM 280 ET SEQ. END FYI.

2. IN ADDITION, THE FEDERAL TORTS CLAIMS ACT DOES NOT ASSURE COMPENSATION, BUT ONLY PROVIDES A RIGHT TO BRING LEGAL ACTION FOR A CLAIM OF DAMAGES ARISING FROM THE NEGLIGENT OR WRONGFUL ACTS OR OMISSIONS OF A FEDERAL EMPLOYEE WHILE ACTING WITHIN THE SCOPE OF HIS AUTHORITY WITHIN THE UNITED STATES. THERE IS NO LEGAL AUTHORITY BY WHICH USG COULD ASSURE

COMPENSATION IN THESE CIRCUMSTANCES. NO COMPENSATION CAN BE PROVIDED WITHOUT LEGAL AUTHORITY.

3. FYI - IN ADDITION TO THE ABOVE-STATED REASONS (WHICH ARE DISPOSITIVE), EVEN IF THERE HAPPENED TO BE SOME LEGAL MEANS OF COMPENSATION BY THE FEDERAL TORTS CLAIMS ACT OR SOME OTHER LEGAL AUTHORITY, THE DEPARTMENT WOULD NOT BE ABLE TO APPROVE GOJ REQUEST FOR ASSURANCE, AS USG HAS NO AUTHORITY OVER THE DEFENDANTS IN JAPAN. UNITED STATES JURISDICTION SIMPLY DOES NOT EXTEND OVER THERE -- GOJ HAS BEEN VERY CLEAR IN ITS INTENTIONS NOT TO WAIVE SOVEREIGNTY OR TO GIVE AUTHORITY TO USG. HAVING NO AUTHORITY OR MEANS OF CONTROLLING THESE DEFENDANTS, THE USG CAN HAVE NO LEGAL RESPONSIBILITY FOR THEM. USG COULD NOT ACCEPT RESPONSIBILITY FOR SITUATION OVER WHICH IT HAS NOT AUTHORITY OR CONTROL. END FYI.

4. JUSTICE DEPARTMENT WANTS DEFENDANTS TO BE GIVEN PER-DIEM EACH DAY INSTEAD OF IN ONE LUMP SUM. TO ACCOMMODATE THIS APPROPRIATE WISH, DEPARTMENT AUTHORIZES EMBASSY TO PAY TO DEFENDANTS \$61.00 PER DAY, EACH DAY UP TO A TOTAL OF \$2,440.00. THIS EQUALS \$61.00 TO FOUR DEFENDANTS FOR TEN DAYS. EMBASSY REQUESTED TO CHARGE THIS PAYMENT TO JUSTICE DEPARTMENT. FISCAL DATA IS APPROPRIATION NO. 1550322, FUND CODE SE140-LL. SISCO

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CLAIMS, COMPENSATION, DEPOSITIONS, TORT CLAIMS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 DEC 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE283493
Document Source: CORE
Document Unique ID: 00
Drafter: CLBLAKESLEY:AD
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740377-0845
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t1974124/aaaaacqu.tel
Line Count: 93
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 74 TOKYO 16863
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 16 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16-Aug-2002 by ReddocGW>; APPROVED <27 DEC 2002 by MorefiRH>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: JUDICIAL ASSISTANCE -- JUSTICE DEPARTMENT'S REQUEST FOR DEPOSITION
TAGS: CPRS, PFOR, SNAR, CGEN, JA, US, JUS
To: TOKYO
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005